

IN THE CLAIMS COMMISSION OF THE STATE OF TENNESSEE
MIDDLE DIVISION

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SCOTT SIRIANNNO)
)
 Claimant,) Claim No. T20150956
)
 vs.)
)
 STATE OF TENNESSEE,)
) Regular Docket
 Defendant.)

ORDER GRANTING SUMMARY JUDGMENT AND DISMISSING CLAIM

This claim came before Robert N. Hibbett, Commissioner and judge sitting as the Trial Court of Record upon appeal from the Division of Claims Administration. The Claimant, Scott Sirianno, alleges that on November 7, 2014, he was traveling on Briley Parkway in Davidson County, when he hit a pothole flattening two tires and damaging two rims. According to Mr. Sirianno, he sustained damages of \$1,351.57. In addition to his own affidavits, the Claimant has filed the affidavits of Erin Nicole Willis and Darrell J. Willis, who were passengers at the time of the incident. The affidavits corroborate the facts stated by the Claimant. The Tribunal accredits and believes the affidavits of the Claimant and his two witnesses.

The State has submitted the affidavit of Daniel Jones, Operations District Specialist in Region 3 of the Tennessee Department of Transportation.

According to Mr. Jones, TDOT had not received any complaints of, nor did TDOT have knowledge of the pothole on Briley Parkway, near the Preston Hotel, prior to the Claimant's incident. The Tribunal accredits the affidavit of Mr. Jones.

The State has filed a Motion for Summary Judgment stating there are no genuine issues of material fact and the State is entitled to judgment as a matter of law. A telephone hearing was conducted on the motion on July 8, 2015. Assistant Attorney General Madeline B. Brough represented the State. The Claimant was self-represented. The Claimant did not provide any proof that the State knew or should have known that the pothole existed at the time of his incident.

The Claims Commission has jurisdiction over this action as provided for under Tenn. Code Ann. § 9-8-307(a)(1)(J). The statute states:

The commission or each commissioner sitting individually has exclusive jurisdiction to determine all monetary claims against the state based on the acts or omissions of "state employees," as defined in § 8-42-101(3), falling within one (1) or more of the following categories:

* * *

(J) Dangerous conditions on state maintained highways. The claimant under this subdivision (a)(1)(J) must establish the foreseeability of the risk and notice given to the proper state officials at a time sufficiently prior to the injury for the state to have taken appropriate measures;

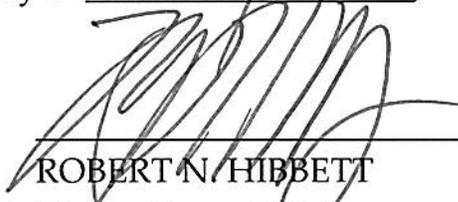
In order to establish a claim under subsection (J), claimant must prove not only the existence of a dangerous condition on a State maintained highway resulting in damage, but that the State had actual or constructive notice of the condition sufficiently prior to the incident to have taken appropriate measures that would have prevented the damage.

While the damage to Mr. Sirianno's car is unfortunate and regrettable, the State is not the insurer of those who travel upon its highways. Because the proof does not demonstrate that the State had notice of any pothole or other dangerous condition on the highway sufficiently prior to the accident to have prevented it, this claim does not meet the statutory criteria for compensation and must be dismissed.

IT IS THEREFORE ORDERED:

That summary judgment is granted to the State of Tennessee and the claim is respectfully dismissed.

ENTERED this 9 day of July, 2015.



ROBERT N. HIBBETT
Claims Commissioner
Sitting as the Trial Court of Record

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing document has been served upon the following parties of record:

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This 13th day of July, 2015.

Paula Merrifield

PAULA MERRIFIELD
Administrative Clerk
Tennessee Claims Commission